

SENATE BILL No. 144

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3.

Synopsis: Beer and wine sales. Eliminates restrictions on the amount of: (1) beer that beer brewers, wholesalers, dealers, and retailers may sell and deliver to consumers; (2) beer that beer wholesalers may sell to the wholesaler's employees; and (3) wine that wine wholesalers and dealers may sell to consumers.

Effective: July 1, 2005.

Simpson

January 4, 2005, read first time and referred to Committee on Commerce and Transportation.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 144

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 7.1-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do the following:

- (1) Manufacture beer.
- (2) Place beer in containers or bottles.
- (3) Transport beer.
- (4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.
- (5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:
 - (A) Sell and deliver beer to a person holding a retailer or a dealer permit under this title.
 - (B) Be the proprietor of a restaurant.
 - (C) Hold a beer retailer's permit, a wine retailer's permit, or a



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- 1 liquor retailer's permit for a restaurant established under clause
 2 (B).
 3 (D) Transfer beer directly from the brewery to the restaurant
 4 by means of:
 5 (i) bulk containers; or
 6 (ii) a continuous flow system.
 7 (E) Install a window between the brewery and an adjacent
 8 restaurant that allows the public and the permittee to view both
 9 premises.
 10 (F) Install a doorway or other opening between the brewery
 11 and an adjacent restaurant that provides the public and the
 12 permittee with access to both premises.
 13 (G) Sell the brewery's beer by the glass for consumption on the
 14 premises. Brewers permitted to sell beer by the glass under
 15 this clause must furnish the minimum food requirements
 16 prescribed by the commission.
 17 (6) If the brewer's brewery manufactures more than twenty
 18 thousand (20,000) barrels of beer in a calendar year, own a
 19 portion of the corporate stock of another brewery that:
 20 (A) is located in the same county as the brewer's brewery;
 21 (B) manufactures less than twenty thousand (20,000) barrels
 22 of beer in a calendar year; and
 23 (C) is the proprietor of a restaurant that operates under
 24 subdivision (5).
 25 (7) Sell and deliver beer to a consumer at the plant of the brewer
 26 or at the residence of the consumer. The delivery to a consumer
 27 ~~shall be made only in a quantity at any one (1) time of not more~~
 28 ~~than one-half (1/2) barrel; but the beer~~ may be contained in bottles
 29 or other permissible containers.
 30 (8) Provide complimentary samples of beer that are:
 31 (A) produced by the brewer; and
 32 (B) offered to consumers for consumption on the brewer's
 33 premises.
 34 (9) Own a portion of the corporate stock of a sports corporation
 35 that:
 36 (A) manages a minor league baseball stadium located in the
 37 same county as the brewer's brewery; and
 38 (B) holds a beer retailer's permit, a wine retailer's permit, or a
 39 liquor retailer's permit for a restaurant located in that stadium.
 40 (10) For beer described in IC 7.1-1-2-3(a)(4):
 41 (A) may allow transportation to and consumption of the beer
 42 on the licensed premises; and

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1 (B) may not sell, offer to sell, or allow sale of the beer on the
2 licensed premises.

3 SECTION 2. IC 7.1-3-3-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The holder of a
5 beer wholesaler's permit may purchase and import from the primary
6 source of supply, possess, and sell at wholesale, beer and flavored malt
7 beverages manufactured within or without this state.

8 (b) A beer wholesaler permittee may possess, transport, sell, and
9 deliver beer to:

10 (1) another beer wholesaler authorized by the brewer to sell the
11 brand purchased;

12 (2) a consumer; or

13 (3) a holder of a beer retailer's permit, beer dealer's permit,
14 temporary beer permit, dining car permit, boat permit, airplane
15 permit, supplemental caterer's permit, or supplemental retailer's
16 permit;

17 located within this state. The sale, transportation, and delivery of beer
18 shall be made only from inventory that has been located on the
19 wholesaler's premises before the time of invoicing and delivery.

20 (c) Delivery of beer to a consumer shall be made in barrels only
21 with the exception of the beer wholesaler's bona fide regular
22 employees, who may purchase beer from the wholesaler in bottles,
23 cans, or any other type of permissible containers. ~~in an amount not to~~
24 ~~exceed forty-eight (48) pints at any one (1) time.~~

25 (d) The importation, transportation, possession, sale, and delivery
26 of beer shall be subject to the rules of the commission and subject to
27 the same restrictions provided in this title for a person holding a
28 brewer's permit.

29 (e) The holder of a beer wholesaler's permit may purchase, import,
30 possess, transport, sell, and deliver any commodity listed in
31 IC 7.1-3-10-5, unless prohibited by this title. However, a beer
32 wholesaler may deliver flavored malt beverages only to the holder of
33 one (1) of the following permits:

34 (1) A beer wholesaler or wine wholesaler permit, if the wholesaler
35 is authorized by the primary source of supply to sell the brand of
36 flavored malt beverage purchased.

37 (2) A wine retailer's permit, wine dealer's permit, temporary wine
38 permit, dining car wine permit, boat permit, airplane permit,
39 supplemental caterer's permit, or supplemental retailer's permit.

40 (f) A beer wholesaler may:

41 (1) store beer for an out-of-state brewer described in IC 7.1-3-2-9
42 and deliver the stored beer to another beer wholesaler that the

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out-of-state brewer authorizes to sell the beer;
 (2) perform all necessary accounting and auditing functions associated with the services described in subdivision (1); and
 (3) receive a fee from an out-of-state brewer for the services described in subdivisions (1) through (2).

SECTION 3. IC 7.1-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The holder of a beer retailer's permit shall be entitled to purchase beer for sale under ~~his~~ **the beer retailer's** permit only from a permittee entitled to sell to ~~him~~ **the beer retailer** under this title. A beer retailer shall be entitled to possess beer and sell it at retail to a customer for consumption on the licensed premises. A beer retailer also shall be entitled to sell beer to a customer and deliver it in permissible containers to the customer on the licensed premises, or to the customer's house.

(b) A beer retailer shall not be entitled to sell beer at wholesale. ~~He~~ **A beer retailer** shall not be entitled to sell and deliver beer on the street or at the curb outside the licensed premises, nor shall ~~he~~ **the beer retailer** be entitled to sell beer at a place other than the licensed premises. However, a beer retailer may offer food service (excluding alcoholic beverages) to a patron who is outside the licensed premises by transacting business through a window in the licensed premises.

(c) A beer retailer shall be entitled to sell and deliver warm or cold beer for carry out, or for at-home delivery, in barrels or other commercial containers. ~~in a quantity that does not exceed fifteen and one-half (15 1/2) gallons at any one (1) time.~~

SECTION 4. IC 7.1-3-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The holder of a beer dealer's permit shall be entitled to purchase beer for sale under the permit only from a permittee entitled to sell to a beer dealer under this title.

(b) A beer dealer shall be entitled to possess beer and sell it at retail to a customer in permissible containers only.

(c) A beer dealer may not sell beer by the drink nor for consumption on the licensed premises nor shall a beer dealer allow it to be consumed on the licensed premises.

(d) Except as provided in subsection (e), a beer dealer shall be entitled to sell beer to a customer and deliver it in permissible containers to the customer on the licensed premises, or to the customer's residence or office. A beer dealer shall not be entitled to sell and deliver beer on the street or at the curb outside the licensed premises, nor shall a beer dealer be entitled to sell beer at a place other than the licensed premises. ~~A beer dealer shall not be entitled to sell~~

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beer and deliver beer for carry-out, or for delivery to a customer's residence or office, in a quantity that exceeds eight hundred sixty-four (864) ounces in a single transaction. However, notwithstanding IC 7.1-5-10-11, a beer dealer who is licensed pursuant to IC 7.1-3-10-4 shall be entitled to sell and deliver warm or cold beer for carry-out, or for delivery to a customer's residence, office, or a designated location in barrels or other commercial containers. ~~that do not exceed two thousand sixteen (2,016) ounces per container.~~ This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

(e) Unless a beer dealer is a grocery store or drug store, a beer dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. A beer dealer that is a grocery store or drug store may sell any item except alcoholic beverages through a window in the licensed premises to a patron who is outside the licensed premises.

SECTION 5. IC 7.1-3-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The holder of a wine wholesaler's permit may purchase, import, and transport wine, brandy, or flavored malt beverage from the primary source of supply. A wine wholesaler may export and transport wine, brandy, or flavored malt beverage by the bottle, barrel, cask, or other container, to points outside Indiana. A wine wholesaler is entitled to sell, furnish, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a wine wholesaler, a wine retailer, a supplemental caterer, a temporary wine permittee, a supplemental retailer, and a wine dealer, but not at retail. A wine wholesaler may sell, furnish, and deliver brandy from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, but not at retail, only to a person who holds a liquor retailer's permit, a supplemental caterer's permit, a supplemental retailer's permit, or a liquor dealer's permit. A wine wholesaler also may sell and deliver wine to a consumer, at the consumer's residence, in bottles or other permissible containers. ~~in a quantity that does not exceed fifty (50) gallons at any one (1) time.~~

(b) As used in this section, "brandy" means:

- (1) any alcoholic distillate described in 27 CFR 5.22(d) as in effect on January 1, 1983; or
- (2) a beverage product that:

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(A) is prepared from a liquid described in subdivision (1);
 (B) is classified as a cordial or liqueur as defined in 27 CFR
 5.22(h) as in effect on January 1, 1997; and

(C) meets the following requirements:

(i) At least sixty-six and two-thirds percent (66 2/3%) of the
 product's alcohol content is composed of a substance
 described in subdivision (1).

(ii) The product's label makes no reference to any distilled
 spirit other than brandy.

(iii) The product's alcohol content is not less than sixteen
 percent (16%) by volume or thirty-two (32) degrees proof.

(iv) The product contains dairy cream.

(v) The product's sugar, dextrose, or levulose content is at
 least twenty percent (20%) of the product's weight.

(vi) The product contains caramel coloring.

(c) Nothing in this section allows a wine wholesaler to sell, give,
 purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless
 the wine wholesaler also holds a beer wholesaler's permit under
 IC 7.1-3-3-1.

(d) A wine wholesaler that also holds a liquor wholesaler's permit
 under IC 7.1-3-8 may not:

(1) hold a beer wholesaler's permit under IC 7.1-3-3;

(2) possess, sell, or transport beer; or

(3) sell more than one million (1,000,000) gallons of flavored
 malt beverage during a calendar year.

SECTION 6. IC 7.1-3-15-3 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The holder of a
 wine dealer's permit shall be entitled to purchase wine only from a
 permittee who is authorized to sell to a wine dealer under this title. A
 wine dealer shall be entitled to sell wine for consumption off the
 licensed premises only and not by the drink.

(b) A wine dealer shall be entitled to sell wine in permissible
 containers. ~~in a quantity of not more than three (3) standard cases, as~~
~~determined under the rules of the commission, in a single transaction.~~
 However, a wine dealer who is licensed under IC 7.1-3-10-4 may
 possess wine and sell it at retail in its original package to a customer
 only for consumption off the licensed premises.

(c) Unless a wine dealer is a grocery store or drug store, a wine
 dealer may not sell or deliver alcoholic beverages or any other item
 through a window in the licensed premises to a patron who is outside
 the licensed premises. A wine dealer that is a grocery store or drug
 store may sell any item except alcoholic beverages through a window

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1 in the licensed premises to a person who is outside the licensed
2 premises.

3 (d) However, a wine dealer who is licensed under IC 7.1-3-10-4 may
4 deliver wine only in permissible containers to a customer's residence,
5 office, or designated location. This delivery may only be performed by
6 the permit holder or an employee who holds an employee permit. The
7 permit holder shall maintain a written record of each delivery for at
8 least one (1) year that shows the customer's name, location of delivery,
9 and quantity sold.

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